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COMMISSION ON THE STATUS OF WOMEN
Forty-second session
Open-ended Working Group on the
Elaboration of a Draft Optional
Protocol to the Convention on the
Elimination of All Forms of
Discrimination against Women
2-13 March 1998
Agenda item 5

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION
AGAINST WOMEN, INCLUDING THE ELABORATION OF A DRAFT OPTIONAL
PROTOCOL TO THE CONVENTION

Revised draft optional protocol submitted by the Chairperson
on the basis of the compilation text contained in the report
of the Commission on the Status of Women on its forty-first
session (E/1997/27) and proposals made by the Commission at
its forty-second session

[The States Parties to this Protocol,

Noting that the Charter of the United Nations reaffirms faith in
fundamental human rights, in the dignity and worth of the human person and in
the equal rights of women and men,

Noting that the Universal Declaration of Human Rights proclaims that all
human beings are born free and equal in dignity and rights and that everyone is
entitled to all the rights and freedoms set forth therein, without distinction
of any kind, including distinction based on sex,

Recalling that the international covenants on human rights and other
international human rights instruments prohibit discrimination on the basis of
sex,



Recalling also the Convention on the Elimination of All Forms of Discrimination against Women, in which States Parties condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women,

Reaffirming their determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms,

[Recalling also that the Vienna Declaration and Programme of Action reaffirms that all human rights are universal, indivisible, interdependent and interrelated,]

[Recalling that the Vienna Declaration and Programme of Action calls for the introduction of a right to petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women,]

[Recalling also that the Beijing Platform for Action urges that such a protocol enter into force as soon as possible,]

Have agreed as follows:

Article 1

[A State Party to the present Protocol recognizes the competence of the Committee to receive and consider communications [submitted in accordance with article 2].]

Article 2

[Communications may be submitted by [or on behalf of] individuals or groups [of individuals] under the jurisdiction of a State Party claiming to be victims of a violation of any of the [rights] [provisions] set forth in the Convention [through an act or failure to act] by that State Party.]

[Communications may be submitted by an individual or groups of individuals, or on their behalf, by their designated representatives, subject to the jurisdiction of a State Party, claiming to be victims of violations of any of the rights set forth in the Convention.]

Article 3

Communications shall be in writing and shall not be anonymous. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to this Protocol.

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Article 4

1. The Committee shall not consider a communication unless it has ascertained that all available domestic remedies have been exhausted unless [it is demonstrated that] the application of such remedies is unreasonably prolonged or unlikely to bring effective relief [as determined in accordance with generally recognized rules of international law].

2. The Committee shall declare a communication inadmissible where [, in the view of the Committee]:

- (i) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (ii) It is incompatible with the provisions of the Convention;
- (iii) It is manifestly ill-founded or not sufficiently substantiated;
- (iv) It is vexatious or otherwise an abuse of the right to submit a communication;
- (v) The facts that are the subject of the communication occurred prior to the entry into force of this Protocol for the State Party concerned unless those facts continued after that date.

Article 5

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its [urgent] consideration a request that the State Party take interim measures as may be necessary to avoid possible irreparable damage [to the victim or victims of the alleged violation].

2. Where the Committee exercises its discretion under paragraph 1, this does not imply a determination on admissibility or on the merits of the communication.

Article 6

1. Unless the Committee considers a communication inadmissible without reference to the State Party concerned, and provided that the individual or individuals consent to the disclosure of their identity or identities, the Committee shall bring any communication submitted to it under this Protocol [confidentially] to the attention of the State Party concerned.

2. Within six months, the receiving State Party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State Party.

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[3. During its examination of a communication, the Committee shall place itself at the disposal of the parties concerned with a view to facilitating settlement of the matter on the basis of respect of the rights and obligations set forth in the Convention]. [In the event of agreement between the parties, the Committee shall adopt findings taking note of the settlement of the matter].

Article 7

[1. While exercising its function under this Protocol, the Committee should be in compliance with the principles of objectivity and impartiality.]

1. The Committee shall consider communications received under this Protocol in the light of all [[written] [or recorded]] information made available to it by [or on behalf of] the [author] [individual] and by the State Party concerned. [The Committee may also take into account information obtained from other [United Nations] sources provided that this information is transmitted to the author and the State Party for comment.]

2. The Committee shall hold closed meetings when examining communications under this Protocol.

[2 bis. When a communication is being considered, the State Party concerned shall be entitled to take part in the proceedings of the Committee and to make submissions orally and/or in writing.]

3. After examining a communication, the Committee shall transmit its views on the communication, together with recommendations, if any, to the State Party and the individual or individuals concerned.

4. The State Party shall give [due] consideration to the views of the Committee, together with its recommendations, if any, and shall submit to the Committee, [as far as possible] within six months, a written response, including on any action taken in the light of the views and recommendations of the Committee.

5. The Committee may invite the State Party to submit further information about any measures the State Party has taken in response to its views or recommendations, if any, including as deemed appropriate by the Committee, in the State Party's subsequent reports under article 18 of the Convention.

Article 10

[1. If the Committee receives reliable information indicating a serious [and] [or] systematic violation by a State Party to the Protocol of rights set forth in the Convention [or of a failure to give effect to obligations set forth in the Convention], the Committee shall invite that State Party to cooperate in the examination of the information and to this end to submit observations with regard to the information concerned.

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2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry [with the consent of the State Party] and to report urgently to the Committee. [[Where warranted and] [in agreement with] [with the consent of] the State Party, the inquiry may include a visit to its territory.]

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party shall, within [three] [six] months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the [consent and] cooperation of the State Party shall be sought at all stages of the proceedings.]

Article 11

[1. The Committee may at [any] [an appropriate] time invite a State Party concerned to discuss with it the measures that that State Party has taken in response to such an inquiry.

[2. The Committee may invite the State Party concerned to include in its report under article 18 of the Convention details of any measures taken in response to such an inquiry].]

Article 11 bis

1. Each State Party may, at the time of signature or ratification of this Protocol or accession thereto, declare that it [does not] recognize the competence of the Committee provided for in articles 10 and 11.

2. Any State Party having made a declaration in accordance with paragraph 1 of this article may, at any time, withdraw this declaration by notification to the Secretary-General.]

Article 12

[States Parties to this Protocol undertake:

[(a) To respect the [right] [procedure] provided by this Protocol to submit communications or information to the Committee and to cooperate with the Committee at all stages of its proceedings under this Protocol;]

[(b) To take all appropriate steps to protect [all persons] [those] under its jurisdiction submitting communications or information] [or those the subject

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of such information/communications,] to the Committee from interference or reprisal by any party.]]

Article 13

The Committee shall include in its annual report under article 21 of the Convention a summary of its activities under this Protocol.

Article 14

Each State Party to this Protocol undertakes to make [widely] known and to give [due] publicity to the Convention and its Optional Protocol and to facilitate access to the views and recommendations of the Committee, in particular, in matters involving that State Party.

Article 15

The Committee shall develop its own rules of procedure to be followed when exercising the functions conferred on it by this Protocol.

Article 16

[The Committee shall meet for such a period as is necessary [within its agenda] to carry out its function under this Protocol.]

Alternative

[The Committee shall hold meetings to exercise its functions under this Protocol, in addition to its meetings held under article 20 of the Convention. The duration of such meetings shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the Protocol, subject to the approval of the General Assembly.]

New resources paragraph

[The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Protocol.]

Article 17

1. This Protocol shall be open for signature by any State that has signed, acceded to or ratified the Convention.

2. This Protocol shall be subject to ratification by any State that has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

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3. This Protocol shall be open to accession by any State that has ratified or acceded to the Convention.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 18

1. This Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the [fifth] [tenth] [twentieth] instrument of ratification or accession.

2. For each State ratifying this Protocol or acceding to it after its entry into force, this Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

Article 20

[No reservations to this Protocol shall be permitted.]

Alternative

[Reservations to this Protocol shall be permitted, unless such a reservation is incompatible with the object and purpose of the present Protocol and the Convention, in accordance with the rules of international law.]

Article 21

1. Any State Party to the present Protocol may propose any amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to this Protocol with a request that they notify her/him whether they favour a conference of States Parties for the purpose of considering and voting on the proposal. In the event that at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to this Protocol in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of this Protocol and any earlier amendments that they have accepted.

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Article 22

1. Any State Party can denounce this Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect six months after the date of receipt of the notification by the Secretary-General.
2. Denunciations shall be without prejudice to the continued application of the provisions of this Protocol to any communication or inquiry before the effective date of denunciation.

Article 23

The Secretary-General of the United Nations shall inform all States of:

- (a) Signatures, ratifications and accessions under this Protocol;
- (b) The date of entry into force of this Protocol and the date of entry into force of any amendment under article 21 and any denunciations under article 22.

Article 24

1. This Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Protocol to all States referred to in article 25 of the Convention.

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Note: The articles following article 7 will be renumbered sequentially in the text of the protocol that will appear in the final report of the Commission on the Status of Women at its forty-second session.
